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Dr. William J. Koster, Sr.  
Long Beach, CA 90801-1000  
213-499-7006

June 13, 1991

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(213) 499-7006

EPA, REGION I, C  
HAZARDOUS WASTE BRANCH

BY FACSIMILE (1-215-597-3235)

Charles B. Howland, Esq.  
Assistant Regional Counsel  
Environmental Protection Agency  
CERCLA Removal Enforcement Section (3HW33)  
841 Chestnut Building  
Philadelphia, PA 19107

Re: Notice of Potential Liability  
70th & Kingsessing, Philadelphia, PA  
Nippon Liner System (North America), Inc.

Dear Mr. Howland:

This acknowledges receipt of your letter of June 10, 1991 and confirms our telephone conversation on June 11, 1991.

I restated the position of Nippon Liner System (North America), Inc. that, from records of which it is aware, it was not, at all material times, the owner, operator or otherwise responsible for container No. SCXU 662176, USA 2200 as alleged in the Notice of Potential Liability dated May 6, 1991. Thus, based upon available information, Nippon Liner System (North America), Inc. continues to deny liability as alleged in the Notice of Potential Liability.

I requested the following:

1. Records to which you referred indicating ownership of the subject container by Yamashita-Shinnihon Steamship Co., Ltd.
2. Documentation or other confirmation of information to which you referred indicating that Nippon Liner System (North America), Inc. assumed responsibility at a material time for the subject container through merger.
3. A complete description of the subject container and all markings appearing on it.

Charles B. Howland, Esq.  
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I advised that we were unable to proceed with our investigation without the requested information and would, consequently, continue to deny liability on behalf of Nippon Liner System (North America), Inc.

You stated that funding limitations prevented the EPA from preparing its case for trial at this stage. As a result of funding limitations and based upon materially defective assumptions, the EPA is placing the burden of proof on Nippon Liner System (North America), Inc. to rebut the EPA's presumption that Nippon Liner System (North America), Inc. is liable.

Nippon Liner System (North America), Inc. is willing to cooperate in your investigation. It is not willing, however, to assume liability not required by statute and established by the requisite evidence.

I again solicit your cooperation in providing all information available to you, and upon which you are relying, that goes to the issue of liability of Nippon Liner System (North America), Inc.

Very truly yours,

LILLICK & CHARLES

  
Alfred G. Moss

YSJ001.880577

cc: Mr. Hiroshi Gotoh

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